

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2387 - SB 2369

February 9, 2016

SUMMARY OF BILL: Defines a “regulatory taking” as the following effects when caused by city, county, or state regulations: deprivation of all economically beneficial use of the land; permanent physical invasion of the land; or diminishment of property values, including, but not limited to, interference with distinct investment-backed expectations.

Authorizes the owner of land subject to a regulatory taking to file a petition for a jury of inquest or sue for damages under the laws governing eminent domain. If a plaintiff prevails in an action brought for a regulatory taking, the plaintiff will be entitled to reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees incurred from the proceeding, in addition to any damages awarded.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – Exceeds \$5,000

Increase Local Expenditures – Exceeds \$5,000*

Assumptions:

- Based on information from local sources, codifying the definition of a regulatory taking will lead to an increase in petitions and law suits filed against the state or local governments that have used the provisions of eminent domain to acquire land which resulted in the deprivation of all economically beneficial use of the land; permanent physical invasion of the land; or diminishment of property values, including, but not limited to, interference with distinct investment-backed expectations.
- The precise impact resulting from the increase in petitions and suits against state and local governments is dependent upon several unknown factors such as: (1) the number of regulatory takings, as defined by the bill, that occur each year; (2) the number of land owners subject to a regulatory taking that will file a petition or sue for damages against the state or a local government; (3) the number of land owners that will prevail in their petition or suit; (4) the value of the properties acquired by a regulatory taking; and (5) the costs associated with each regulatory taking proceeding.
- Given the extent of unknown factors, determining a precise fiscal impact is difficult; however it is assumed that a plaintiff will be the prevailing party in at least one suit brought each year against the state and a local government as the result of a regulatory

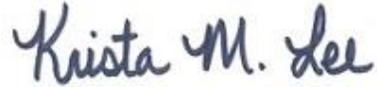
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taking and that the increase in both state and local expenditures will exceed \$5,000 per case for court costs and other fees.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/amj